

REGULAR MEETING OF THE CITY COUNCIL:

Austin, Texas, April 6, 1933.

The Council was called to order by the Mayor. Roll call showed the following members present: Councilmen Alford, Gillis, Mayor McFadden, Councilmen Mueller and Steck, 5; absent, none.

The Minutes of the last two regular meetings, March 23rd and March 30th, were read and Councilman Gillis moved the adoption of same as read. Motion was seconded by Councilman Mueller and same prevailed by the following vote: Ayes, Councilmen Alford, Gillis, Mayor McFadden, Councilmen Mueller and Steck, 5; nays, none.

Mrs. May S. Cox appeared before the Council and asked permission to build a brick veneer apartment house at 807 Brazos Street to replace an old sixteen-room, frame dwelling instead of being compelled to erect a solid brick structure as required under the Fire Limits Ordinance. After a discussion of the matter, same was referred to the City Attorney to find out what effect the granting of this privilege would have on the City's fire insurance key rate.

The written request of O. A. Leisering for permission to transfer the southwest quarter of Oakwood Cemetery Lot 1165 from Mrs. Anna Leisering, the present owner, to J. L. Hearn was read. Councilman Mueller moved that the City Manager be authorized to approve this transfer. Motion was seconded by Councilman Gillis and same prevailed by the following vote: Ayes, Councilmen Alford, Gillis, Mayor McFadden, Councilmen Mueller and Steck, 5; nays, none.

The application of E. A. Gathright for permit to widen two ramps at the Doll House Sandwich Shop, 1211 South Congress Avenue, was read.

The Mayor then laid before the Council the following resolution:

WHEREAS, on April 9, 1931, E. A. Gathright, lessee of property at 1205 and 1217 South Congress Avenue, which property was owned by G. Flury, was granted permission to construct a commercial driveway across the sidewalk area on the east side of Congress Avenue south of Academy Drive according to the Minutes of the City Clerk, Book 12, Pages 440 and 441; and

WHEREAS, the said E. A. Gathright constructed said commercial driveway in accordance with the rules and regulations outlined in the aforesaid resolution; and

WHEREAS, said E. A. Gathright now desires to widen each ramp 20 feet, making the total width of each ramp 40 feet and making the distance between ramps 80 feet instead of 120 feet, as shown upon the map attached to the first named resolution; and

WHEREAS, the City Manager has recommended the granting of said request in accordance with the above named changes; and

WHEREAS, the City Council of the City of Austin has considered the foregoing request and recommendations; therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

THAT permission be granted E. A. Gathright, lessee of property at 1205 and 1217 South Congress Avenue, which property is owned by G. Flury, to widen the commercial driveways across the sidewalk area on the east side of Congress Avenue south of Academy Drive so that the width of each driveway will be 40 feet instead of 20 feet and so that the distance between driveways will be 80 feet instead of 120 feet as shown upon the map or plat attached to the original resolution dated April 9, 1931, and recorded in the Minutes of the City Clerk of the City of Austin. All rules and regulations governing the con-

struction of the commercial driveways as outlined in the above named resolution, recorded in Minute Book 12, Pages 440 and 441, of the Minutes of the City Clerk of the City of Austin, shall be complied with in widening the ramps now in place.

The above resolution was adopted by the following vote: Ayes, Councilmen Alford, Gillis, Mayor McFadden, Councilmen Mueller and Steck, 5; nays, none.

The report of the arbitrators selected to adjust certain matters in dispute between the City of Austin and H. E. Wattinger, Contractor for the construction of the Austin Public Library Building, was read. Mayor McFadden moved that the report of said arbitrators be approved and ordered spread upon the Minutes; that payment be authorized according to the findings of this court, as set forth in said report; and that the thanks of the Council be extended to said arbitrators for their valuable services. The motion was seconded by Councilman Mueller and same prevailed by the following vote: Ayes, Councilmen Alford, Gillis, Mayor McFadden, Councilmen Mueller and Steck, 5; nays, none.

The report of said arbitrators follows:

"Austin, Texas, March 23, 1933.

Hon. Adam R. Johnson,
City Manager,
Austin, Texas.

Dear Sir:

In matter of the schedule (copy attached) of differences between the City and H. E. Wattinger & Company, Contractors, in relation to the construction of the Austin Public Library Building, as submitted to us for arbitration, our conclusions are as follows:

1. (a) We find the City shall not deduct the amount of \$151.36 from the final payment to the Contractor.

(b) We find the City shall not deduct the approximate amount of \$1061.00 from the final payment to the Contractor.

(c) We find the City shall not deduct the amount of \$270.50 from the final payment to the Contractor.

2. We find the City should retain from the Contractor the amount of \$150.00, or such part thereof as may be necessary to repair said alley from the final payment to the Contractor.

3. We find the Contractor is not entitled to the amount of \$328.80.

Respectfully submitted,

(Sgd) L. H. Blenderman

W. S. Drake. "

(Schedule attached)

THE STATE OF TEXAS |
COUNTY OF TRAVIS. |

WHEREAS, certain matters in dispute have arisen between City of Austin, hereafter called City, and H. E. Wattinger & Co., hereinafter called Contractor, in relation to the construction of the Austin Public Library Building, which matters are as follows, to-wit:

1. The specifications for the Library Building provides that the Contractor shall base his bid on the scale of wages as definitely set out in the specifications, and shall pay such scale of wages; and in event the Contractor or any sub-contractor shall refund or rebate any portion of said scale of wages, then the difference between the scale set out in the specifications and the amount actually paid such laborer or mechanic shall be deducted from any monies then due the general contractor or any such sub-contractor. The City contends:

(a) That during the progress of the work, Barnes and Mitchell, sub-contractors, paid the carpenters on this job \$5.00 per day, whereas the specifications provided that carpenters shall be paid not less than \$7.00 per day, per eight hours; and that the difference between the carpenter's wages set out in the specifications and the amount actually paid by said sub-contractors amounts to \$151.36, which amount is now withheld by the City from the Contractor.

The question is whether or not the City of Austin shall deduct from the final payment to the Contractors said amount, or such amount as may be proven, on account of the premises above stated.

(b) That during the progress of the work, the Contractor paid a lower scale of wages to certain carpenters and brick-layers on the job than the scale of wages respectively specified, to wit, to carpenters \$5.00 per day per eight hours, when the scale of wages specified \$7.00 per day per eight hours, and to brick-layers \$5.00 per day per eight hours, when the scale of wages specified \$9.00 per day per eight hours; and that the difference between such wages actually paid and the wages specified amount approximately to \$1061.00, which amount is now withheld from the Contractor by the City.

The question is whether or not the City of Austin shall deduct from the final payment to the Contractor said amount, or such amount as may be proven, on account of the premises above stated.

(c) That during the progress of the work, the sub-contractor for painting paid to the painters on the job a lower scale of wages than the scale specified, to wit, \$6.00 per day per eight hours, when the scale specified \$8.00 per day per eight hours; and that the difference between such wages actually paid and the wages specified amount approximately to \$270.50, which amount is now withheld from the contract.

The question is whether or not the City of Austin shall deduct from the final payment to the Contractor said amount, or such amount as may be proven, on account of the premises above stated.

2. The specifications provide that in excavating for the retaining wall along the alley, the Contractor shall protect the alley paving and shall repair and patch the paving after the wall has been built. The City contends that in constructing said retaining wall, the Contractor excavated under the alley, and that such excavation and the manner in which it was done caused the foundation of the alley to collapse or cave-in, which rendered the pavement of the alley unsafe and required the removal of a strip of the paving on the north side of the alley, and that the Contractor back-filled the space produced by said caving of the alley, but failed to repair the surface thereof; and the City estimates that such work would cost approximately \$150.00, which amount has been retained by the City for such purpose.

The question is whether or not under the facts that may be proven, the Contractor is obligated to repair said alley.

3. The Contractor contends that he was required to excavate and back-fill certain areas south of the alley retaining wall, and that such work was extra to the contract, and has submitted his account for such extra work in the amount of \$328.50, and the City has refused to pay such account.

The question is whether or not the Contractor is entitled to the payment of said account as an extra; and

WHEREAS, said parties desire to submit such matters to arbitration by the arbitrators hereinafter named; now, therefore,

We, the undersigned, City of Austin and H. E. Wattering & Company, do hereby mutually agree and covenant to and with each other to submit the matters above specified to L. H. Blendermann, who is hereby appointed as arbitrator by the City of Austin, and W. S. Drake, who is hereby appointed arbitrator by H. E. Wattering & Company, who will arbitrate an award of and concerning said matters; said arbitration to be held on the 17th day of March, 1933, and to be adjourned from time to time, if necessary, until an award is made.

And we do mutually agree and covenant to and with each other that the award to be made by the said arbitrators shall be valid and binding upon, and shall be kept and performed by each of us; provided, that in case said arbitrators herein appointed fail to agree upon an award, said arbitrators herein named shall agree upon and appoint another person, to act in such case as umpire between said arbitrators, and the award made by such umpire with the concurrence of at least one of said arbitrators shall be valid and binding upon and shall be kept and performed by each of us.

WITNESS our hands, in duplicate, this the 5th day of March, 1933.

CITY OF AUSTIN

By Adam R. Johnson
City Manager

H. E. WATTINGER & CO.

By _____

Messrs. R. G. Mueller, Geo. T. Reinhardt, and A. A. Mundt appeared before the Council and presented a petition signed by I. N. Taylor and themselves, asking that the City remove the dirt banked against the south end of the east arch of the bridge across Shoal Creek at Fifth Street in order to prevent damage to adjoining property from floods in Shoal Creek; the said I. N. Taylor, owner of part of the property on which the dump

is located, agreeing to this removal provided the surplus dirt is put on his adjoining lot. Councilman Steck moved that the City Manager be instructed to comply with the request. Motion was seconded by Mayor McFadden and same prevailed by the following vote: Ayes, Councilmen Alford, Gillis, Mayor McFadden, Councilmen Mueller and Steck, 5; nays, none.

Mr. A. A. Mundt also requested that the section of the City south of Sixth Street near Shoal Creek be given street lights for the protection of life and property. The Council took no action on the matter, but advised Mr. Mundt that owing to lack of funds many sections of the City are still unlighted.

Mr. H. H. Luedcke, Chairman of the Building Committee of the Library Commission, appeared before the Council and asked that the Committee be authorized to spend the sum of \$125.00, plus freight charges, out of the item of \$600.00 specified in the contract for bronze tablets for the purpose of having a cast of ex-Mayor Wooldridge, which is a gift to the Library, done in bronze. Councilman Steck moved that the request of the Committee be granted. Motion was seconded by Councilman Gillis and same prevailed by the following vote: Ayes, Councilmen Alford, Gillis, Mayor McFadden, Councilmen Mueller and Steck, 5; nays, none.

The Mayor laid before the Council the following resolution:

WHEREAS, the Park Board of the City of Austin has requested the City Council to appropriate the sum of \$750.00 to complete the purchase of property on Blunn Creek, which purchase had been previously authorized by the Park Board at a meeting held October 6, 1931, as recorded in Park Board Minutes on Page 125; and

WHEREAS, the recommendation of the Park Board has been reviewed and approved by the City Council; therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

THAT the sum of \$750.00 be and the same is hereby appropriated out of the Parks and Playgrounds Bond Fund for the purchase of said Blunn Creek property as set forth in the Minutes of the Park Board as recorded on Page 125.

The above resolution was adopted by the following vote: Ayes, Councilmen Alford, Gillis, Mayor McFadden, Councilmen Mueller and Steck, 5; nays, none.

A communication from Mrs. Edna Wheeler, thanking the Council and City Manager in behalf of the citizens of the Metz School district for the park and street lights recently given that section of the City, was read and ordered filed.

The Mayor laid before the Council the following resolution:

WHEREAS, the improvements on Lot 11, Block 1, Outlot 21, Division "C", Sunny Ridge Addition of Plainview Heights, Plat 67, assessed in the name of Huron Mills and transferred to W. W. Breazeale, the present owner, was assessed at a taxable two-thirds valuation of \$1405.00, representing completion of the house on January 1, 1932; and

WHEREAS, Huron Mills, owner and builder of the house at the time of assessment, states that there was no inside finish, no canvas and paper, no finish on the floors, no plumbing fixtures set, no electric fixtures in place, and painting incomplete; and

WHEREAS, in accordance with the letter herewith attached, the representative of the Tax Department states that an inspection of this improvement was made December 29, 1931, and that at that time the place was looked up and the shades down so that from all outside appearances it looked as if it were complete and the assessment was made accordingly; now, therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

That the Tax Assessor and Collector of the City of Austin be and he is hereby

authorized to change his records on the assessed valuation on the improvements on Lot 11, Block 1, Outlot 21, division "C" Sunny Ridge Addition of Plainview Heights, Plat 67, from 100% complete at \$1405.00 to 60% complete at \$545.00 and collect the taxes accordingly.

The above resolution was adopted by the following vote: Ayes, Councilmen Alford, Gillis, Mayor McFadden, Councilmen Mueller and Steck, 5; nays, none.

The Mayor laid before the Council the following resolution:

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

THAT Councilman Leo Mueller and Councilman E. L. Steck be and they are hereby appointed as a committee to canvass the returns of the election held in the City of Austin, Texas, on April 3, 1933, and they are hereby instructed to report to the City Council the result of such canvass.

The above resolution was adopted by the following vote: Ayes, Councilmen Alford, Gillis, Mayor McFadden, Councilmen Mueller and Steck, 5; nays, none.

Councilmen Mueller and Steck were then excused from the Council Chamber in order to canvass such returns, following which they submitted to the Council the following report:

"April 6, 1933.

The City Council,
Austin, Texas.

We, the undersigned, the committee appointed to canvass the returns of the election held in the City of Austin, Texas, on April 3, 1933, beg leave to report that we have made a careful canvass of such returns and find that same show that the following persons severally received, as candidates for councilmen, in each of the voting wards shown below, and in the total, the votes set opposite their names, respectively, to wit:

EAST 1ST WARD: Chas. F. Alford, 314; J. O. Andrewartha, 159; C. M. Bartholomew, 216; Simon Gillis, 333; Tom C. Gregory, 18; Tom Miller, 268; C. W. Moore, 149; Hilliare Nitschke 250; Ed C. Rather, 144; J. R. Reed, 191; Walter E. Simms, 24; Oswald G. Wolf, 265; total vote cast, 478.

WEST 1ST WARD: Chas. F. Alford, 337; J. O. Andrewartha, 101; C. M. Bartholomew, 134; Simon Gillis, 353; Tom C. Gregory, 19; Tom Miller, 312; C. W. Moore, 129; Hilliare Nitschke, 305; Ed C. Rather, 93; J. R. Reed, 122; Walter E. Simms, 9; Oswald G. Wolf, 294; total vote cast, 443.

2ND WARD A: Chas. F. Alford, 108; J. O. Andrewartha, 96; C. M. Bartholomew, 127; Simon Gillis, 111; Tom C. Gregory, 3; Tom Miller, 99; C. W. Moore, 101; Hilliare Nitschke, 74; Ed C. Rather, 90; J. R. Reed, 105; Walter E. Simms, 12; Oswald G. Wolf, 99; total vote cast, 215.

2ND WARD B: Chas. F. Alford, 225; J. O. Andrewartha, 102; C. M. Bartholomew, 146; Simon Gillis, 240; Tom C. Gregory, 11; Tom Miller, 199; C. W. Moore, 116; Hilliare Nitschke, 186; Ed C. Rather, 90; J. R. Reed, 125; Walter E. Simms, 11; Oswald G. Wolf, 204; total vote cast, 342.

3RD WARD A: Chas. F. Alford, 397; J. O. Andrewartha, 337; C. M. Bartholomew, 472; Simon Gillis, 427; Tom C. Gregory, 18; Tom Miller, 355; C. W. Moore, 345; Hilliare Nitschke, 297; Ed C. Rather, 343; J. R. Reed, 417; Walter E. Simms, 37; Oswald G. Wolf, 315; total vote cast, 782.

3RD WARD B: Chas. F. Alford, 224; J. O. Andrewartha, 241; C. M. Bartholomew, 319; Simon Gillis, 240; Tom C. Gregory, 5; Tom Miller, 206; C. W. Moore, 250; Hilliare Nitschke, 166; Ed C. Rather, 234; J. R. Reed, 288; Walter E. Simms, 24; Oswald G. Wolf, 170; total vote cast, 482.

3RD WARD C: Chas. F. Alford, 124; J. O. Andrewartha, 156; C. M. Bartholomew, 228; Simon Gillis, 156; Tom C. Gregory, 5; Tom Miller, 121; C. W. Moore, 163; Hilliare Nitschke, 81; Ed C. Rather, 171; J. R. Reed, 213; Walter E. Simms, 8; Oswald G. Wolf, 116; total vote cast, 312.

4th WARD A: Chas. F. Alford, 389; J. O. Andrewartha, 371; C. M. Bartholomew, 519; Simon Gillis, 364; Tom C. Gregory, 20; Tom Miller, 269; C. W. Moore, 398; Hilliare Nitschke, 313; Ed C. Rather, 428; J. R. Reed, 490; Walter E. Simms, 30; Oswald G. Wolf, 278; total vote cast, 799.

4TH WARD B: Chas. F. Alford, 389; J. O. Andrewartha, 410; C. M. Bartholomew, 534; Simon Gillis, 446; Tom C. Gregory, 9; Tom Miller, 353; C. W. Moore, 399; Hilliare Nitschke, 331; Ed C. Rather, 425; J. R. Reed, 494; Walter E. Simms, 37; Oswald G. Wolf, 297; total vote cast, 856.

FOURTH WARD C: Chas. F. Alford, 495; J. O. Andrewartha, 277; C. M. Bartholomew, 359; Simon Gillis, 513; Tom C. Gregory, 32; Tom Miller, 439; C. W. Moore, 286; Hilliare Nitschke, 414; Ed C. Rather, 255; J. R. Reed, 331; Walter E. Simms, 46; Oswald G. Wolf, 420; total vote cast, 791.

5TH WARD A: Chas. F. Alford, 333; J. O. Andrewartha, 157; C. M. Bartholomew, 209; Simon Gillis, 344; Tom C. Gregory, 6; Tom Miller, 298; C. W. Moore, 151; Hilliare Nitschke, 266; Ed C. Rather, 123; J. R. Reed, 178; Walter E. Simms, 17; Oswald G. Wolf, 285; total vote cast, 496.

5TH WARD B: Chas. F. Alford, 130; J. O. Andrewartha, 128; C. M. Bartholomew, 143; Simon Gillis, 152; Tom C. Gregory, 16; Tom Miller, 130; C. W. Moore, 96; Hilliare Nitschke, 101; Ed C. Rather, 94; J. R. Reed, 129; Walter E. Simms, 21; Oswald G. Wolf, 122; total vote cast, 264.

6TH WARD: Chas. F. Alford, 356; J. O. Andrewartha, 155; C. M. Bartholomew, 205; Simon Gillis, 367; Tom C. Gregory, 18; Tom Miller, 371; C. W. Moore, 136; Hilliare Nitschke, 285; Ed C. Rather, 129; J. R. Reed, 184; Walter E. Simms, 19; Oswald G. Wolf, 331; total vote cast, 567.

7TH WARD A: Chas. F. Alford, 258; J. O. Andrewartha, 95; C. M. Bartholomew, 116; Simon Gillis, 262; Tom C. Gregory, 9; Tom Miller, 252; C. W. Moore, 102; Hilliare Nitschke, 222; Ed C. Rather, 88; J. R. Reed, 101; Walter E. Simms, 26; Oswald G. Wolf, 247; total vote cast, 371.

7TH WARD B: Chas. F. Alford, 476; J. O. Andrewartha, 180; C. M. Bartholomew, 216; Simon Gillis, 492; Tom C. Gregory, 21; Tom Miller, 429; C. W. Moore, 203; Hilliare Nitschke, 388; Ed C. Rather, 157; J. R. Reed, 194; Walter E. Simms, 66; Oswald G. Wolf, 424; total vote cast, 676.

SUMMARY.

Chas. F. Alford	received	4555	votes.
J. O. Andrewartha	"	2965	"
C. M. Bartholomew	"	3943	"
Simon Gillis	"	4800	"
Tom C. Gregory	"	210	"
Tom Miller	"	4101	"
C. W. Moore	"	3024	"
Hilliare Nitschke	"	3679	"
Ed C. Rather	"	2864	"
J. R. Reed	"	3562	"
Walter E. Simms	"	387	"
Oswald G. Wolf	"	3867	"

Total vote cast at
Election -

7874.

Respectfully submitted,

(Sgd) Leo O. Mueller

E. L. Steck
Committee..

The Mayor then laid before the Council the following resolution:

WHEREAS, by virtue of an election held in the City of Austin, Texas, on the 3rd day of April, 1933, for the purpose of electing five Councilmen, the official returns from the election officials certify and show, and thereafter a canvass of said returns by the Committee appointed by the City Council to canvass said returns also show, that there were cast at said election a total of 7874 votes; and

WHEREAS, said returns, and the canvass thereof, also show that the following named persons severally received the total votes set opposite their names, respectively, to-wit:

Chas. F. Alford	received	4555	votes
J. O. Andrewartha	"	2965	"
C. M. Bartholomew	"	3943	"
Simon Gillis	"	4800	"
Tom C. Gregory	"	210	"
Tom Miller	"	4101	"
C. W. Moore	"	3024	"
Hilliare Nitschke	"	3679	"
Ed C. Rather	"	2864	"
J. R. Reed	"	3562	"
Walter E. Simms	"	387	"
Oswald G. Wolf	"	3867	"

Total vote cast at
Election -

7874 ; and

WHEREAS, it appears that Chas. F. Alford, C. M. Bartholomew, Simon Gillis, Tom Miller and Oswald G. Wolf have received the highest number of votes cast for councilmen at said election; now, therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

THAT in accordance with said returns, as received and canvassed, the following named persons are hereby declared duly elected, and authorized to qualify for the positions of councilmen for the City of Austin, for the term of two years, beginning May 1, 1933: Chas. F. Alford, C. M. Bartholomew, Simon Gillis, Tom Miller, and Oswald G. Wolf.

The above resolution was adopted by the following vote: Ayes, Councilmen Alford, Gillis, Mayor McFadden, Councilmen Mueller and Steck, 5; nays, none.

The Mayor laid before the Council the following resolution:

WHEREAS, the retiring City Council and Manager will on April 30, 1933, relinquish to their successors in office the custody and control of City of Austin bonds of a par value of \$106,000.00, and of cash on hand and in banks estimated at not less than \$600,000.00; and

WHEREAS, it is essential to the best interests of both present and succeeding administrations that the account balances reflecting these and all other properties and liabilities of the City of Austin be verified as of April 30, 1933, by external audit, and that the findings of such audit be duly reported and published; and

WHEREAS, the cost of such verification, report and publication will be approximately as follows:

For the Audit and Certified Report -----	\$650.00	
For Publication -----	250.00	or so much thereof as may be necessary
Total -	\$900.00	

Now, therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

THAT the sum of \$900.00 be and the same is hereby appropriated from the unencumbered General Fund cash for the purposes above stated.

The above resolution was adopted by the following vote: Ayes, Councilmen Alford, Gillis, Mayor McFadden, Councilmen Mueller and Steck, 5; nays, none.

Councilman Alford in voting for the above resolution suggested that other auditors, including Ernst & Ernst, be given an opportunity to submit bids on this work, in addition to the T. B. Trotter Company. The City Manager advised the Council, however, that the T. B. Trotter Company was in position to do the work cheaper than other firms by virtue of their having made the other audits for the City, and it was the sense of the Council that the said T. B. Trotter Company be employed.

There being no further business before the Council, Councilman Mueller moved to recess, subject to call of the Mayor. Motion was seconded by Councilman Steck and same prevailed by the following vote: Ayes, Councilmen Alford, Gillis, Mayor McFadden, Councilmen Mueller and Steck, 5; nays, none.

The Council then recessed.

Approved:


Mayor.

Attest:


City Clerk